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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,576	07/31/2001	Robert M. Dunn	CA920000062US1	1855
46073	7590	03/21/2007		
IBM CORPORATION (VE) C/O VOLEL EMILE P. O. BOX 162485 AUSTIN, TX 78716			EXAMINER KARMIS, STEFANOS	
			ART UNIT 3691	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/918,576

Applicant(s)

DUNN, ROBERT M.

Examiner

Stefano Karmis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The following application communication is in response to Applicant's amendment filed 05 January 2007.

#### ***Status of Claims***

2. Claims 1, 10 and 24 are currently amended. Claims 1-24 are currently pending.

#### ***Response to Arguments***

3. Applicant's arguments filed 05 January 2007 with respect to the rejection of claims 1-24 under 35 U.S.C. 103(a) as being unpatentable over Danford-Klein et al. (hereinafter Danford-Klein) U.S. Patent 6,061,667 in view of Blinn et al. (hereinafter Blinn) U.S. Patent 6,058,373 have been fully considered but they are not persuasive as discussed below.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 24 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24 recites in the preamble “a computer for displaying a result to a user, the result being provided by a calculation scale framework for use in an electronic commerce environment comprising a computer network, the electronic commerce environment defining a calculation rule, and a set of commerce objects, the computer system comprising.” The body of the claim does not contain any limitations indicating the structure of the device. A system or an apparatus claim should always claim the structure or the hardware that performs the function. Applicant’s claimed limitations consist of code (software according to the specification) that do not describe the structure of the device. Appropriate correction is required.

***Claim Rejections - 35 USC § 101***

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claim 24 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 24 recites in the preamble “a computer for displaying a result to a user, the result being provided by a calculation scale framework for use in an electronic commerce environment comprising a computer network, the electronic commerce environment defining a calculation rule, and a set of commerce objects, the computer system comprising.” The body of claim 24 recites “code means” in the limitations. Therefore claim 24 is non-statutory because it is directed towards software, per se, lacking storage on a medium, which enables any underlying functionality to occur. It is not clear whether instructions are in executable form and therefore there is no practical application.

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***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danford-Klein et al. (hereinafter Danford-Klein) U.S. Patent 6,061,667 in view of Blinn et al. (hereinafter Blinn) U.S. Patent 6,058,373.

Claims 1-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Danford-Klein et al. (hereinafter Danford-Klein) U.S. Patent 6,061,667 in view of Blinn et al. (hereinafter Blinn) U.S. Patent 6,058,373 as stated in the previous office action, mailed 06 October 2006.

Applicant argues that Danford-Klein fails to teach *an optional currency attribute, which when present specifies the currency of the range start numbers*. Applicant asserts that Danford-Klein does not provide for calculations in different currency denominations as suggested by the

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present invention. In response to applicant's argument, it is noted that the features upon which applicant relies (i.e., different currency denominations) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims state *a currency attribute which when present specifies the currency of the range start numbers*. Danford-Klein teaches a rating engine with actual price data used to calculate the price for linehaul services (column 12, line 59 thru column 13, line 2). Price is clearly a currency attribute which when present specifies the currency. Therefore this argument is not persuasive.

Applicant argues that Danford-Klein fails to teach *providing a calculation scale look up interface, a base monetary value, a result multiplier and a set of mathematical weights corresponding to the set of commerce objects*. Applicant asserts that the cited passage relates to dates and date ranges. The Examiner respectfully disagrees. The section teaches calculation of linehaul service rates within certain date ranges (column 15, lines 43-63). The rating engine mentioned performs cost calculations for linehaul services (column 7, lines 33-45, column 9, line 59 thru column 10, line 13 and column 16, lines 23-40). The rating engine also provides calculations using a base monetary value (column 16, lines 23-40). Therefore Applicant's argument is not persuasive because Danford-Klein clearly teaches that the rates calculated by the rating engine are limited to dates.

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Applicant argues that Blinn fails to teach *replacing the previously determined multiplication product when the calculation range is non-cumulative*. Applicant's argument is limited in that Applicant merely provides the generalization that Blinn fails to teach this limitation. Danford-Klein in view of Blinn teach *replacing the previously determined multiplication product when the calculation range is non-cumulative*. Danford-Klein teaches replacing previous calculations with new calculations in a non-cumulative range (column 16, lines 23 thru column 17, lines 50). Blinn also discloses replacing a multiplication product when a calculation is non-cumulative (column 26, lines 3-59). Applicant is reminded the claims are given their broadest reasonable interpretation and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that the Examiner did not state whether or not Danford-Klein or Blinn teaches the step of apportioning the total result to the set of commerce objects in proportion to the set of mathematical weights. The Examiner respectfully disagrees. The Examiner pointed out passages in the office action mailed 06 October 2006. Therefore this argument is not persuasive.

11. For these reasons, claims 1-24 stand rejected as stated in the previous office action and Applicant's request for allowance is respectfully declined. Applicant has provided no other arguments regarding the dependent claims, therefore the dependent claims stand or fall with the independent claims discussed above.

*Conclusion*

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

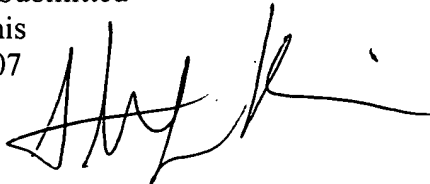


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Respectfully Submitted  
Stefano Karmis  
07 March 2007



HANI M. KAZIMI  
PRIMARY EXAMINER